

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
ANDERSON/GREENWOOD DIVISION

Ronald Bernard Daniel,

 Petitioner,

 vs.

Warden John Owen,

 Respondent.

Civil Action No. 8:12-740-MGL

OPINION AND ORDER

Plaintiff proceeding pro se, filed this habeas relief action pursuant to 28 U.S.C. § 2241. (ECF No. 1). This matter is before the court on Respondent's motion to dismiss or, alternatively, for summary judgment. (ECF No. 14.) In accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02(B)(2)(d), DSC, this matter was referred to United States Magistrate Judge Jacquelyn D. Austin for pre-trial proceedings and a Report and Recommendation. On August 2, 2012, Magistrate Judge Austin issued a Report recommending that Respondent's motion to dismiss or, alternatively, for summary judgment be granted. (ECF No. 23.) The Magistrate Judge advised Plaintiff of the procedures and requirements for filing objections to the Report and Recommendation and the serious consequences if he failed to do so. (ECF 23-1.) Plaintiff has filed no objections and the time for doing so has expired.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *See Mathews v. Weber*, 423 U.S. 261, 96 S.Ct. 549, 46 L.Ed.2d 483 (1976). The court is charged with making a *de novo* determination of any portion of the Report and Recommendation of the Magistrate Judge to which a specific objection is made. The court may accept, reject, or modify, in

whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b). The court reviews the Report and Recommendation only for clear error in the absence of an objection. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir.2005) (stating that “in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.”) (citation omitted).

After a thorough review of the record of this matter, the applicable law, and the Report and Recommendation of the Magistrate Judge, the court finds no clear error. Accordingly, the court adopts and incorporates the Report and Recommendation (ECF No. 23) by reference into this order. It is therefore ORDERED that the Respondent’s motion to dismiss, or alternatively for summary judgment is GRANTED.

IT IS SO ORDERED.

s/Mary G. Lewis
United States District Judge

September 21, 2012
Spartanburg, South Carolina